

Charles Miller  
Financial Services Communications Consulting  
1187 Wilmette Ave.  
#238  
Wilmette, Illinois 60091  
(847) 772-3770  
[chucksemail@comcast.net](mailto:chucksemail@comcast.net)

Department of Labor  
Employee Benefits Security Administration  
Office of the Assistant Secretary for Policy

*Comment on the Proposed Information Collection Request Submitted for Public  
Comment: Evaluating the Effectiveness of the 408(b)(2) Disclosure  
Requirements*

*Specifically, The "Guide"*

After a conversation with Assistant Secretary Borzi last week at an ERISA conference, she suggested I comment on the proposed Guide that Covered Service Providers (CSPs) would provide along with the required 408b(2) fee disclosures.

I co-authored "2012 New Fee Disclosure Rules" for the BLR HR Compliance Series. In the manual, we not only discussed the rules, but how to present them in a clear and concise manner. We were concerned that not only would participants have difficulty understanding the fee notices, so would most plan fiduciaries, administrators, and sponsors.

That obviously is also a concern of EBSA, or a Guide would never have been proposed.

As a bit of background, the EBRI/ICI 2012 401(k) database indicates most of the plans in the database are small: 47 percent of the plans have 25 or fewer participants, and 28 percent have 26 to 100 participants.

What that tells me is that 75 percent of plan fiduciaries do not have in-depth knowledge of either 401(k) plans or 401(k) investments. They are HR generalists and have many other duties than 408b(2) disclosure. I have worked with these small plan sponsors for nearly 25 years, and I can assure you most of their time is taken with hiring and training employees, payroll, and healthcare plan claims or access.

Issues with retirement plans fall far down the priority list.

The EBSA should assume that those receiving a Guide from a CSP have little knowledge or understanding of what record keepers cost or how investment managers determine expense ratios. A Guide I would create would be *less of a "roadmap" and more of a "travel guide"*. This type of Guide would not only show the waypoints, but also why one route is preferred and what you will encounter along the way.

A roadmap will tell you how to get someplace but not why your destination is important.

Plan fiduciaries need to know more than where items are on disclosure forms, but also what they mean. This would entail a thorough description or definition of each item and why the item is an important component of the fees charged.

I would add that a plan fiduciary, administrator, or sponsor that has little understanding of plan fees could not help participants understand their disclosure forms (which should also have “travel guides”).

Lack of a Guide multiplies ignorance of fees.

Disclosure does not equal communication. Communication is not only a means of connection but also knowledge and understanding. The EBSA has to move away from disclosure to plan fiduciaries towards communication with plan fiduciaries.

A roadmap would help but a travel guide would do much more.

*Charles Miller*